



Ein cyf/Our ref: FM/00514/14

David Melding AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

16th May 2014

Dear David,

Disqualification from membership of the National Assembly for Wales

Thank you for your letter of 2 May 2014, regarding the Committee's inquiry into disqualification from membership of the National Assembly for Wales. In the letter you asked for information about the rationale for including organisations in the Schedule to *The National Assembly for Wales (Disqualification) Order 2010*, including details of any criteria used and how they were chosen.

As stated in the Welsh Government memorandum submitted to the Committee, the previous Orders aimed to disqualify:

- Holders of offices wholly or partly funded by the Welsh Government. This included salaried, pensionable and certain fee-paid posts, but excluded posts attracting expenses only. Office with remuneration of less than £10,000 per year should not normally attract disqualification.
- Appointments which were made, approved or confirmed by the First Minister, Welsh Ministers or the Counsel General, or appointments on which they had a statutory right to be consulted.
- Office holders whose functions would give rise to an unsustainable conflict of interest were they to be elected as Assembly Members.
- Office holders who were not, or were not seen as being, politically impartial.

These disqualification criteria are broadly consistent with those in place for the House of Commons and other devolved legislatures. The listings in the Assembly Disqualification Orders do not however mirror those disqualifying offices and employments that apply under the House of Commons Disqualification Act 1975. The rationale for this is that the Assembly is not a comparable body to the House of Commons and so the listings are adapted to better suit the unique position of Wales and its Assembly within the United Kingdom.

In advance of every Assembly elections, the most recent Order is reviewed and updated to, for example, remove those offices which are included in the current Order but have since been abolished or their title has changed. All Welsh Government departments also consider whether any new posts have been created which may need to be disqualified on the basis of the criteria outlined above, and review the posts included in the last Disqualification Order to consider whether it may be unnecessarily restrictive to keep them on the disqualified list. Legal advice is also sought on all proposals to modify the excluded list. This process is in place to ensure that the listings conform to the disqualifying criteria to the greatest possible extent. However, given the broad scope of the criteria, it is not unforeseeable that, to some extent, there could be disparities in the treatment of the listed offices or employments.

As indicated in the Welsh Government memorandum to the Committee, it is our view that the current structures for excluding persons from Assembly membership do not properly reflect their *raison d'être*. We are therefore keen to see how the rules and principles underpinning disqualification can be changed to improve participation from candidates while maintaining public trust and confidence in the conduct of Assembly elections. It is now time to consider specifically what the disqualification criteria for the Assembly should be, working from first principles.

I look forward to the Committee's recommendations on how to improve and streamline the rules underpinning disqualification from Assembly membership. Any proposed modifications to the rules will be given serious consideration by the Welsh Government when we start working on the next National Assembly for Wales Disqualification Order prior to the Assembly elections in May 2016.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

CARWYN JONES